

Appl. No. : 09/300,139
Filed : April 27, 1999

REMARKS

In response to the Office Action, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the following comments.

Discussion of Claim Rejections Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected Claims 1-20, 22, 24-32, 34-42, and 44-54 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,510,553 to Hazra (hereinafter "Hazra") in view of U.S. Patent No. 6,466,697, to Boon (hereinafter "Boon"). Claims 21, 23, 33, and 43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hazra in view of Boon in view of U.S. Patent Application No. 2001/0038674, to Trans (hereinafter "Trans").

Applicant has enclosed herewith a Declaration under 35 U.S.C. § 1.132. The Declaration shows that the aspects of the SureStream product described in Hazra and which was relied upon by the Examiner in the Office Action originated with the present inventors. M.P.E.P. § 716.10 states:

Under certain circumstances an affidavit or declaration may be submitted which attempts to attribute an activity, a reference or part of a reference to the applicant.

... An uncontradicted "unequivocal statement" from the applicant regarding the subject matter disclosed in an article, patent, or published application will be accepted as establishing inventorship. . . .

An affidavit under 37 CFR 1.132 may be submitted to show that the relevant portions of the reference originated with or were obtained from applicant.

Hazra states: "In one embodiment, the multiple independent streams may be authored according to the Smart Stream™ multimedia content technology commercially available from Real Networks, Inc." See col. 8, line 57-60. Applicant respectfully submits that the enclosed declaration contains an unequivocal statement that the subject matter in Hazra which was relied upon by the Examiner was originated by one or more of the named inventors. In light of this Declaration, Applicant respectfully submits that cited subject matter of Hazra relied upon by the Examiner was originated by one or more of the named inventors of this application and that Hazra is no longer usable as a basis for rejecting the present claims under 35 U.S.C. §§ 102(e) or

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103(a). Furthermore, since Hazra was the primary reference relied upon by the Examiner in rejecting each of independent Claims 1, 9, 10, 15, 20, 24, 34, 35, and 46, Applicant respectfully submits that the reasons for rejection in the Office Action do not currently provide an appropriate basis for rejection of the claims, and that all claims are now in condition for allowance.

Summary

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

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Dated: 6/18/2004

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